A VIII 27 T. R. Ds File No. 386

1939

P 7 Collection No.

JLJP 23.

22-7-47

Pros. / Serial Nos. 1–2

(K)

Subject.

Procedure for the removal + disposal of all carcasses in the Veterinary Hospital + for the recovery of the charges

Amendment of Rules and Scale of fees of Govt Vety Hospital

Previous References.	Later References.

S. 97.—(Green).

MFP—1663 S&P—(M-2971)—24-6-38—100,000.

D.No.5452 S.N.1

The rules relating to the Govt.Veterinary Hospital, C & M Station, Bangalore, and the scale of fees to be levied for treatment of animals in that hospital, are contained in this office Proceedings No.10237, dated the 2nd November 1928(S.N.32 of F.374-1928). In the Proceddings ~~mentioned above~~, it is ~~only~~ laid down that "the charges for the removal and disposal of all carcasses will be paid by the owner or owners." In place of this rule, the Collector suggests a more elaborate rule as in the draft ~~amendment~~ sent by him. ~~Laying down the procedure for the removal and disposal of all carcasses in the Voty. Hospital and for the recovery of charges.~~ The proposed amendment may perhaps be approved.

M

S.N.32/F.374
1928.
M

S.N.32/F.374
1928
M

Other than Vaccine treatment.

In the Proceedings mentioned above, scale of fees has been prescribed for treatment of the following animals.

1) Horse
2) Pony.
3) Mule.
4) Dog.
5) Cat.
6) Cattle(including buffalos,bullocks,cows,calves sheep and goat).
7) Elephant.
8) Camel.
9) Birds.
10) Donkey.

In the proposed amendment, rates of fees for the removal and disposal of carcasses of only ~~animals coming under~~ items Nos. 1 to 6 above have been prescribed and not of ~~those coming under~~ items Nos.7 to 10. Perhaps rates of fees in respect of ~~those cases are not prescribed~~ the latter have not been suggested, as the occasion for the removal and disposal of carcasses of such animals does not usually arise. Yet, as scale of fees has been prescfibed for treatment of such animals ~~in the hospital~~, it seems desirable to prescribe also the rates of fees for the removal ahd disposal of their carcasses.

If approved, the file may be sent U.O. to the Collector for remarks on the point raised in para 2. ~~Whatever~~ he may be asked to make the If the suggestion meets with his approval, necessary additions ~~may be made~~ to the draft amendment. ~~received with the~~

13/6/39

13.6.39

I have spoken to Mr. Chengeri. He suggests that for the words "Dogs and Cats" in the draft order, we may substitute "Donkeys, Goats, Sheep, Dogs and other small animals".

It seems hardly worth-while sending file to Collector to approve the amendment.

20/6/39

Reference paras 4 & 5.

Draft of proceedings is submitted for approval.

S.M. 26/6/39.

27/6/39

28.6.

(Para 6)

S. N. (2) done.

Await

CORRESPONDENCE.

S.N. 32
F.374-1928

(1)

OFFICE OF THE COLLECTOR,
CIVIL AND MILITARY STATION, BANGALORE.

No. 35-A-39 Enc.1. *Dated* 26th May *1939*.

FROM

H.H. Carleston, Esq., I.C.S.,

COLLECTOR, CIVIL AND MILITARY STATION,
BANGALORE.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
29 MAY 1939
Diary No. 525-2
File No.

To

The Secretary to the Hon'ble the Resident in Mysore,
Bangalore.

SIR,

Rules and scale of fees of the Government Veterinary Hospital - Resident's Proceedings No.10237, dated the 2nd November 1928 - amendments to.

- - -

I forward herewith for approval and incorporation in the Resident's Proceedings quoted above, a draft amendment laying down the procedure for the removal and disposal of all carcasses in the Veterinary Hospital and for the recovery of the charges. I request that this may be substituted for the sub-para "The charges for the removal.... owners" under"In-patients" in the said proceedings.

I have the honour to be,.

Sir,

Your most obedient servant,

H.H. Carleston

COLLECTOR.

MAB.26/5.

DESPATCHED
27 MAY 1939

2

DRAFT ORDER.

Carcasses of horses, ponies, buffaloes, cattle, dogs, cats etc., dying in the Veterinary Hospital shall not be disposed of except as provided herein. The Veterinary Superintendent shall inform the Health Officer and, if practicable, the owner immediately after the death of any of the above animals and the Health Officer will arrange for the removal and burial of the carcass under proper supervision at the following rates to be paid by the owners.

1. Horses, buffaloes and English breed cattle .. Rs.4/- each.
2. Ponies and other cattle .. Rs.3/- each.
3. (Dogs and cats.) .. Re.0-8-0 each.

Donkeys, Goats, Sheep Dogs and other small animals

2. Provided that, if the owner of the animal for good reasons himself undertakes to bury the carcass and the Veterinary Superintendent issues a certificate that the animal was not suffering from any disease likely to affect other cattle or injure the public health, burial may be done by the owner in a place approved by the Health Officer. Such burial must be completed within 12 hours after the death of the animal, failing which burial will be done by the Health Officer at the owner's cost.

H.H. Carleton

COLLECTOR.

MAB.26/5.

PROCEEDINGS OF THE HON'BLE THE RESIDENT IN MYSORE.

R.Dis.No.F. 386/39 G & A. Bangalore, the 7th July 1939

with 100 printed copies.

Read:-

Letter from the Collector, C & M. Stn., Bangalore, No.35-A-39, dated the 26th May 1939.

ORDER.

The Hon'ble the Resident ~~is pleased~~ t[illegible] directs that the following further amendment shall be made to the rules issued with his Proceedings No.10237, dated the 2nd Nov. 1928:-

For

"The charges for the removal and disposal of all carcasses will be paid by the owner or owners."

Substitute

"Carcasses of horses, ponies, buffaloes, cattle, ~~dogs, cats, etc.~~ donkeys, goats, sheep, dogs and small animals dying in the Veterinary Hospital shall not be disposed of except as herein provided.

The Veterinary Superintendent shall inform the Health Officer and if practicable the owner, immediately after the death of any of the above animals and the Health Officer will arrange for the removal and burial of the carcasses under proper supervision at the following rates to be paid by the owner.

1.Horses, buffaloes and English breed cattle	Rs.4/-each
2.Ponies and other cattle	Rs.3/- "
3.Donkeys, Goats, Sheep, Dogs and other small animals.	Rs.1/8/- "

Provided that, if the owner of the animal for good reasons himself undertakes to bury the carcass and the Veterinary Superintendent issues a certificate that the animal was not suffering from any disease likely to affect other ~~animals or~~ cattle or injure the public

public health, burial may be done by the owner in a place ~~(and manner)~~ approved by the Health Officer. Such burial must be completed within 12 hours after the death of the animal, failing which, burial will be done by the Health Officer at the owner's cost."

By order, etc.,

28.6.

for Secy. to the Resident.

- - - -

To be published in the Mysore Resy. Order and 120 printed copies to be supplied.

To the Collector, C & M. Stn., Bangalore, with 100 ~~xx~~.printed copies.

To the A.G., Madras.

To the Officer i/c of the Hon'ble the Resident's Treasury, Bangalore.

26/6/29

27.6.29

PROCEEDINGS OF THE HON'BLE THE RESIDENT IN MYSORE.

R. Dis. No. F. 386-39/G & A, dated Bangalore, the 5th July 1939.

READ :—

Letter from the Collector, C. & M. Station, Bangalore, No. 35-A-39, dated the 26th May 1939.

ORDER.

The Hon'ble the Resident directs that the following further amendment shall be made to the rules issued with his Proceedings No. 10237, dated the 2nd November 1928 :—

For "The charges for the removal and disposal of all carcasses will be paid by the owner or owners.", *substitute* " Carcasses of horses, ponies, buffaloes, cattle, donkeys, goats, sheep, dogs and small animals dying in the Veterinary Hospital shall not be disposed of except as herein provided.

The Veterinary Superintendent shall inform the Health Officer and if practicable the owner immediately after the death of any of the above animals and the Health Officer will arrange for the removal and burial of the carcass under proper supervision at the following rates to be paid by the owner :—

1. Horses, buffaloes and English breed cattle ... Rs. 4 each.
2. Ponies and other cattle ... ... Rs. 3 „
3. Donkeys, goats, sheep, dogs and other small animals ... As. 8 „

Provided that, if the owner of the animal for good reasons himself undertakes to bury the carcass and the Veterinary Superintendent issues a certificate that the animal was not suffering from any disease likely to affect other cattle or injure the public health, burial may be done by the owner in a place approved by the Health Officer. Such burial must be completed within 12 hours after the death of the animal, failing which, burial will be done by the Health Officer at the owner's cost."

By order, etc.,

A. J. COURTNEY,
for *Secretary to the Resident.*

386 (1)—5-7-1939—117+3—RPB.

A ~ Mad. 7. R. 2s File No. 383
1939

P H H
Collection No.

H Gpt. 23.
22.7.47

(W)

S-N-3 decls

Pros. / Serial Nos. 1 – 3.

Pol C
25/11/46

Subject.

Religious & Charitable endowments – Will left by the late B. S. Manjunathaiya – failure to observe provisions for creating trust

Previous References.

SCJ/31

Later References.

RJ 18 -43

A
25/11/46

S. 97.—(Green).

MFP—1663 S&P—(M-2971)—24-6-38—100,000.

NOTES AND PRECIS.

C.P. 1-26 Dy.No.4115 S.N.1

C.P. 27 Dy.No.4901 S.N.2

Dy.No.5214 S.N.3 Remanded

1

finds 4 & 7 S.N.1

The late Government Pleader held the view that the suit had no prospect of success. Mr.Williams and the present Government Pleader hold a contrary view.

2

There is no doubt that a prima facie case exists. The public interest demands that Government should take some action in the matter.

3

The question of jurisdiction is all-important in this case. Under section 92 C.P.C. a suit may be instituted in the principal Civil Court of original jurisdiction or in any other Court empowered in that behalf by the Provincial Government within the local limits of whose jurisdiction the whole or any part of the subject matter of the trust is situate. Mulla in his commentaries on the C.P.C. at p.295 says that "the words 'within the local limits of whose jurisdiction the whole or any part of the subject matter of the trust is situate" apply both to the principal Civil Court of original jurisdiction and to the Court empowered in that behalf"

not put up

4

The expression 'subject matter of the trust' has been discussed at length in Annamalai Chettiar vs. Solayappa Chettiar (69 M.L.J.p.278). Venkatasubba Rao J. said:

put up

> "The point to consider is, what is the meaning of the expression 'the subject matter of the trust'? The plaintiffs contend that it includes the purposes or the object of the trust and go on to maintain that as the temple --- is situated within the local limits of the Sub-Court of Tiruvarur that Court has jurisdiction. This argument - - - must be rejected. - -.- I am therefore quite clear that a suit under section 92 (C.P.C) should be brought where the subject matter of the trust, that is to say, the trust property or the trust money or any part of it, is situate".

It is clear therefore that in the present case a suit under section 92 C.P.C. can be filed in the District

Court

Court, C. and M. Station, if the whole or any part of the trust property or trust money is situate in the Station

c.f. 3 5

Paragraph 8 of the Collector's letter shows that the trust/properties endowed for the Poor Boys' Home are in the Mysore State. There remains only the question of movable property. The Collector says that "--- and the movable property consisting of Government Promissory notes bring the matter within the jurisdiction of the Station District Court" Please see the Schedule of trust properties at cor.p.22. Only item 4 relates to Government Promissory notes, ~~but they~~ As they have been sold ~~and~~ it is doubtful whether ~~the amount can be recovered.~~ the C.&M. Station Court will have jurisdiction by reason of the fact that they were at one time within its jurisdiction. They were movable property.

× c.f. 22 b

There remains certain debts due to the estate of the testator and we have now to see whether any part of those debts can be held to be situate within the jurisdiction of the Station District Court. The following passage from the judgment of Venkatasubba Rao J. already referred to, is relevant in this connection:-

Pp. 274-280

> "The question then arises where is this debt situate? - - - -The situation of the debt therefore is either where the debtor resides or where it is recoverable or can be enforced"

7

Before the Resident decides whether a suit under section 92 should be instituted or not it is therefore essential to have information ~~of~~ on the ~~xxxxx~~ points mentioned in the above judgment. As the Schedule at cor.p.22 does not contain the information, the file may be sent U/O to the Collector for supplying it.

c.f. 3-4 8

Please see para 9 of the Collector's letter. For the following reasons it is submitted that there does not appear to be any objection to including the claim of the Ulsoor temples also in the suit under section 92

(1) Section 92 authorises the Advocate General (the Collector in the present case) to institute a suit "in the case of any alleged breach of any express or constructive

constructive trust created for public purposes of a charitable or religious nature" It has been held by the Bombay High Court in Manohar Ganesh Tambekar vs. Lakshmiram Govindaram (12 Bom. 247) that "a trust for a Hindu idol and temple is to be regarded in India as one created "for public charitable purposes', within the meaning of section 539 of the Code of Civil Procedure"(corresponding to section 92 of the present Code).

(2) The advantage in including the claim of the Ulsoor temples also in the suit is that thereby the difficulties already explained regarding jurisdiction can be obviated. It is evident from c.p.13 and 19 that the properties endowed to the temples are all within the C. and M. Station of Bangalore. By including the claim of the temples also in the suit, the jurisdiction of the Station District Court to entertain the suit will be on firm foundation because a part of the subject matter of the trust as a whole will then be within the C. and M. Station.

As regards the draft Plaint forwarded by the Collector, the comments on the cause-title and the authority under which the Collector files suits under section 92 C.P.C., which were made in the file relating to Govinda Chetty's Chatram, are applicable to this case also.

The copy of the Will on the file is that forwarded with an anonymous petition. It is presumed that the Collector has verified that it is a true copy.

The file may, if approved, be sent U/O to the Collector, for favour of remarks.

23.5.39

SECY.

12. Reference Celestial, Latest Letter, will be pleased decide, in consultation with the Dy. Comm. Bangalore Dt., whether the suit should be filed in the City or the Cons Station, having regard to the considerations set out in the note above

H.W. Carlyon
23/6/39

Col U/o

Confidential
U/O No.D.4115, dated the 23rd May 1939

The Collector, C. and M. Station, U/O.

13. A reference has been made to the Deputy Commissioner, Bangalore District explaining the circumstances of the case and asking him if he will file a suit in City as the only properties known to exist are situate within the Mysore State and jurisdiction is therefore with the State Courts. I shall intimate the result on receipt of his reply.

14. As regards the bequest to the temples in Ulsoor, I consider that this claim cannot be included in a suit under Section 92 Civil Procedure Code.

H.W. Carlyon

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
15 JUN. 1939
Diary No. 6061
File No.

Secretary.

The Secretary to the Hon'ble the Resident in Mysore, B'lore
U.O.No.1825-A-39 dated the 14th June 1939.

15. The reference relates principally to the Trust properties endowed for the Poor Boys' Home, and it mentions about the endowment for the Ulsoor temples. The Collector is of the opinion that the claim ralating to the bequest to the temples cannot be included in the suit.

*SN.1
Col p.1.

16. Perhaps a reply may be awaited from the Deputy Commissioner, Bangalore District; and the question regarding the temple endowment may then be considered further when a decision is taken where the suit regarding the Poor Boys Home should be instituted.

PsRao
17.6.39

19/6/39. (From para 12)

Secretary.

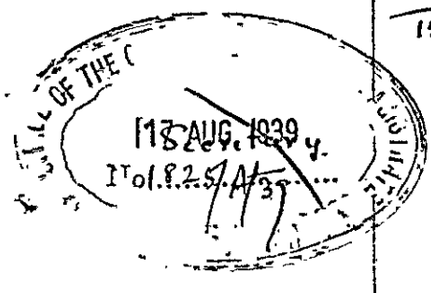
Await 15-7-39
5-8-39
15-8-39

17. Please see para 13 of notes ante. Perhaps the Collector may be asked u.o. how the matter stands.

16/8/39

Sr.
15.8.39.

AsRa.
15.8.39



Collector, C. & M. Station, Bangalore.

u/o. R. Dis. No. F. 383-39/Judl., dated 16th Aug. 1939.

18 The Deputy Commissioner informs me that the question has been referred to the Government Advocate in

in Mysore for opinion, through the Muzrai Commissioner in Mysore and that he is awaiting his reply. The result will be communicated to you on receipt of his reply.

H.H. Carleton 20.8.39

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
23 AUG 1939
Diary No. 8772
File No.

The Secretary to the Hon'ble the Resident in Mysore, Bangalore.

U.O.No.1825-A-39, dated the 20th August 1939.

The letter from Collector may be awaited. No action is necessary now.

DSRao 23.8.39

24.8.39.

A.S.

20.9.39

6.10.39

20

May Collector be requested u/o/ to say whether any reply has been received from the Deputy Commissioner, please.

DSRao 23.x.39

24/10/39.

Secretary.

The Collector, C. Dy. Station, Bangalore.

u/o No. R. Dis. 383-39/Judl., dated 24th Oct. 1939

OFFICE OF THE COLLECTOR & DISTRICT MAGISTRATE
26 OCT 1939
No. 1825/A/39
CENTRAL STATION

The Deputy Commissioner states on the 4th October 1939 that a reply is still awaited from the Muzrai - - - Commissioner and that he will write to me on receipt of his reply.

29/10/39.

H.H. Carleton 28.x.39

A.29-A-39/15.12.39

The Secretary to the Hon'ble the Resident in Mysore, B'lore
U.O.No.1825-A-39, dated the 28th October 1939.

Please see para 21 of notes ante.

22 The Collector may be requested u.o. to say how the matter stands.

Sr.
19.12.39.

Secretary
Dis.383/39, dated the 19th Dec. 1939.

OFFICE OF 20 DEC. 1939 1825/A/39

23 The Deputy Commissioner informs me that the Muzzrai Commissioner has not yet received the Government Advocate's opinion in the matter.

The Secretary to the Hon'ble the Resident in Mysore, B'lore
U.O.No.1825-A-39 dated the 22nd December 1939.

Please see para 23 above.

24 The Collector may be requested u.o. to expedite the matter.

OFFICE OF THE CC -5 MAR. 1940 No.1879-A-39

27.2.40.

27.2.40

Secretary

Collector, C.A.V. Station, Bangalore
a/o No R.F. 383-39/Jude, dated the 4th Mar. 40.

25.

The Muzrai Commissioner in Mysore has sent the opinion of the Government Advocate stating that a suit under Section 92 Civil Procedure Code may be filed in the Station Courts, The file has been sent to the Government Pleader for remarks as he had stated previously that the Station Courts had no jurisdiction. He has been reminded on the 5th March 1940 ~~to expedite~~. A reply will be sent as soon as ~~it is received~~ possible.

H.H. Carleton

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE. 12 MAR. 1940 Diary No 2686 File No .....

The Secretary to the Hon'ble the Resident in Mysore, B'lor U.O.No.1825-A-39 dated the 9th March 1940.

26.

Collector's reply may be awaited.

PRao 12.3.40

13/3

27.

Collector may be requested u/o. to kindly state how the matter stands.

Put up on 9-4-1940

A. 25-4-1940

ASRao 27.4.40

4

Collector, C. Dn. Station, Bangalore

4to No. R.F. 183-39/ Jud. dated 25th April 40

OFFICE OF THE COLLECTOR & DISTRICT MAGISTRATE 2 MAY 1940 No. 1825-A-40.

28.

"As the Government Pleader still holds that the local Court has no jurisdiction to entertain the suits and I also am of the same opinion, I have asked him on 27th April, 1940 to get in touch with the Mysore Government Advocate: in order to reach an agreed decision on the question of jurisdiction."

H.H. Carleton

The Secretary to the Hon'ble the Resident in Mysore, B'lore.
U.O. No. 1825-A-39 dated the 3rd May 1940.

29. Facts are given in S.N.I. of R. 383/39. Testator died in 1925. Suggestion that properties have been malversated was made anonymously in 1931. Collector wanted to file a suit in April 1939: So far nothing has happened — see note above. Resdt. does not seem to have seen file at all yet.

30. It is suggested that the matter shd. either be dropped or prosecuted with greater vigour.

Secy.

Resdt. may wish to see this case. I think the case should be pursued + O.M. will be reminded frequently with ref to para 28, if Resdt. agrees.

Resdt

CORRESPONDENCE.

Confidential : N.I.

OFFICE OF THE COLLECTOR,
CIVIL AND MILITARY STATION, BANGALORE.

F) Ref No. 934-A-38 Enc. (6). *Dated* 17th April *1939*

19/4/39

FROM

C.F.V. Williams, Esq., I.C.S.,

COLLECTOR, CIVIL AND MILITARY STATION,
BANGALORE.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
21 APR. 1939
Diary No. 4115
File No.

To

The Secretary to the Hon'ble the Resident in Mysore,
Bangalore.

SIR,

Religious and charitable endowments - Will left by the late Mr. B.S. Munisawmappa - failure to observe provisions for creating trust - report submitted.

- - -

I submit the following report in connection with the will of the late Mr.B.S.Munisawmappa who died in 1925.

2. The will bequeathed certain moneys and properties for the establishment of a Poor Boys' Home and for the endowment of religious sevas in the Sri Subramanyaswami and Someswaraswami temples in Ulsoor; the value of the two bequests is now estimated at Rs.87,500 and Rs.6,500 respectively. No action has been taken by the executor and trustees to give effect to these provisions of the will. The matter has engaged the attention of previous Collectors in consultation with the Government Pleader but so far it has not been found possible to take any effective action.

3. The matter was first brought to the Collector's attention by an anonymous letter forwarded with your endorsement No.7304/567-1931 dated the 9th October 1931 (That letter and a copy of the will which accompanied it are returned herewith). Mr. Cooke called upon the executor and the four trustees to produce accounts of the properties, but the trustees represented that the executor had not yet handed over the properties to them and the executor asked for time to produce the accounts.

Though given time he did not produce them, and has not produced them to this date.

4. Mr. Brislee and Mr. MacIver in turn then consulted the late Government Pleader (Rao Sahib C.N. Surya Parakas) as to the desirability of instituting a suit under section 92 Civil Procedure Code. The Government Pleader advised that there was not sufficient material before the Collector to justify this action, and that such a suit had no prospect of success and would be a waste of Government money. This advice was accepted. As regards the properties bequeathed to the temples, the Dharmakartha of the Temple was asked to take action to recover them. As regards the bequest to the Poor Boys' Home, the Deputy Commissioner, Bangalore District was asked whether the Mysore Government would take action since most of the properties are situated in the Mysore State. The Deputy Commissioner replied that since the donor was a resident of and the cause of action arose in the Station, the Collector might take action under section 92 Civil Procedure Code. A copy of his letter No. C.3.1224/35-36, dated the 2nd March 1938 is enclosed.

C.P. 20

5. I then consulted the present Government Pleader and called upon the executor to appear before me with accounts of the property. He appeared and represented that the account books were not with him but with Mr. Ramanuja Ayengar in Hyderabad, who is one of the trustees. It is quite obvious that no accounts will be forthcoming at a mere request for them.

C.P. 22

6. I enclose a list showing particulars and approximate value of each item of property bequeathed to the Poor Boys' Home. It will be seen that property worth about Rs.50,000/- may be recoverable. With the exception of the Government Promissory Notes, all the property lies within the Mysore State. The Government Promissory Notes to the value of Rs.20,000/- have been sold and no explanation is forthcoming as to the disposal of the proceeds.

3

7. I am clearly of opinion that, belated though it may be, some attempt should be made to ensure that effect is given to the testator's bequest to public charity. The only possible action is a suit, to be instituted by me in my capacity as Advocate General under Section 93 of the Civil Procedure Code. The present Government Pleader and I do not share the late Government Pleader's opinion that such a suit would be a waste of time and money. It may be that it will be difficult to secure for the trust the property situated in the Mysore State, but the attempt must in my opinion be made. The public interest clearly demands that the failure to give effect to the provisions of the will should be investigated by a competent court of law; the alternative is to acquiesce in that failure.

8. Although the immoveable properties are located within the Mysore State, the terms of the bequest and the moveable property consisting of Government Promissory notes bring the matter within the jurisdiction of the Station District Court. I have had a draft plaint prepared by the Government Pleader and enclose a copy for information. The court fee on the plaint and incidental charges will be about Rs.150/- which will have to be met now. The Government Pleader will require a fee of Rs.500/- for conducting the case, one half of which ought to be paid when the case reaches the evidence stage, the balance being payable after judgment. These costs will eventually be debitable to the trust fund if the court so directs, but in the meantime the suit has to be financed. I request therefore that the Hon'ble the Resident will be pleased to sanction the necessary expenditure to enable me in my capacity as Advocate General to proceed with the suit. Any costs recoverable from trust funds by order of the court will of course be repayable to Government.

C.P. 23

9. The property endowed to the two temples in Ulsoor must be claimed by the Dharmakarthas of the temples; the

claim

14

claim cannot be included in the suit under Section 92.

I have the honour to be,

Sir,

Your most obedient servant,

COLLECTOR.

DESPATCHED
18 APR. 1939

33

15

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
22 AUG. 1931
Regd. No. 8101
File No. 567-31

To,

Lieutenant Colonel R. J. C. Burke, I. A.,
The Honorable the Resident in Mysore,
B a n g a l o r e.

In the matter of the extensive properties endowed by the late B.S.Muniswamappa son of B.Siddappa, who resided in G. Street, Ulsoor, C & M Station, Bangalore, for establishing a "Poor Students' Home" and for conducting some Religious Sevas, as per terms of his registered will dated the 14th day of May 1925.

Respected Sir,

I am one of the Public of this Station interested in the Charities and Religious Sevas, specifically defined and set out by the late B.S.Muniswamappa son of B.Siddappa of Ulsoor, C & M Station, Bangalore, in his registered last will and testament dated the 14th day of May 1925, with the necessary provision for continuing the same in perpetuity.

2. The details relating to the establishment of a "Poor Students' Home" and maintaining therein helpless and deserving poor students, and also the details of

the Religious Sevas to be conducted in the two Hindu temples of Sree Someswara Swami and Sree Subramanya Swami, are fully indicated and mentioned in the will executed by the testator B.S.Muniswamappa.

3 The testator B.S.Muniswamappa has made suitable provision in his will for carrying out the said Charities and Sevas in perpetuity, by endowing for this purpose properties worth about Rs 1,25,000 and they are described in Schedules 1 and 2 attached to his will. Besides these valuable properties set apart for this purpose, the testator has also made over five hundred (500) Bangalore Bank Shares that stood in his name and the dividend due thereon.

4. The will in question is in Kanarese, and a correct English translation of the same is appended hereto for kind perusal and information. It was drawn up by Mr.K.V.Ramanuja Iyengar B.A.,B.L., a practising Advocate, residing in Ulsoor, C & M Station, Bangalore, in accordance with the wishes of the testator, and it contains all the details relating to the Charities and the Religious Sevas in question.

5. The testator to his great misfortune lost during his lifetime his only son Rangaramappa and also his (testator's) wife, who died one after another at a short interval. He had two married daughters, of whom the younger by name Gowramma also died, before her mother's death. Thus the only members that survived in the testator's family were the testator, his widowed daughter-in-law and her infant daughter.

6. The testator most generously bequeathed the rest of his hard earned properties, exclusive of those endowed by him to the Public Charities and Religious Sevas, to his divided brother B.S.Marappa's two sons, B.M.Shamanna Gowda and B.M.Chandrasekhara Gowda, in equal shares, with a condition that the said B.M.Shamanna Gowda should meet out of these properties the monthly maintenance charges of the testator's widowed daughter-in-law, and certain other non-recurring charges in favour of his grand-children. The other nephew of the testator, viz., B.M.Chandrasekhara Gowda, was then and is even now a minor.

7. The testator appointed his divided nephew B.M. Shamanna Gowda as the sole Executor of his will, and four other persons as Trustees to carry out the Public Charities and the Religious Sevas directed by him in his will, in co-operation with his sole Executor the said B.M.Shamanna Gowda. The four Trustees are :- 1. H.Gundappa(the son-in-law of the Testator's brother B. S. Marappa), 2. Narayanappa (presumed to be the testator's deceased daughter's husband), 3. A.Sundaram Iyer (an ex-official of the Public Works Department), and 4. Mr.K.V.Ramanuja Iyengar, Advocate, who drew up the will. All these Trustees except Narayanappa are very shrewd persons and know full well their responsibilities as Trustees.

8. The testator has directed in his will that the secured and unsecured debts mentioned in Schedule No.1 attached to the will, as also the dividends due on the five hundred Bangalore Bank Shares, should be realised by the Trustees and the Executor, and invested in reliable Government Securities. He has also directed

these persons to effect a sale of the immoveable properties referred to in Schedule No.1, as also the Bangalore Bank Shares, and invest the sale proceeds in reliable Government Securities, so that the Public Charities and the Religious Sevas in question may be carried through in perpetuity. The testator, after thus arranging the disposal of all his properties worth about Rs 2,50,000/- died a few days after he executed his will in May 1925, with the full confidence that the Executor of his will and the Trustees would strictly carry out the directions given in his will.

9. It has to be submitted here that H.Gundappa (Trustee) and B.M.Shamanna Gowda (the Executor of the will) are living together and the former is virtually the manager of the family affairs of the latter. This B.M.Shamanna Gowda is a thoughtless young fellow and is under the thumb of his brother-in-law the said H.Gundappa. These two persons were in direct charge of the trust properties and the other properties of the testator B.S.Muniswamappa, after his death. They had all facilities to deal with them as they liked.

10. The said B.M.Shamanna Gowda, young as he is, has turned out a notorious rake, and this is an open secret known to all the people living in Ulsoor, and his brother-in-law H.Gundappa has been providing him with all the luxuries required for his luxurious life, out of the trust properties.

11. While the Executor of the will B.M.Shamanna Gowda has been leading this kind of despicable life, his brother-in-law H.Gundappa has been following the

rule - "Make hay while the sun shines." He was not worth a copper cent of his own at the time of the testator's death. He has now become a big landlord and a money lender driving about in costly motor cars. How he has so suddenly become rich can be easily guessed by the authorities.

12. This H.Gundappa was working under his father-in-law B.S.Marappa, who also died in April 1925, in connection with some Excise contracts. These people not being in a position to command money to produce security deposits when they took up Excise contracts, sought the help of the testator B.S.Muniswamappa. The latter endorsed over to H.Gundappa and B.S.Marappa, Mysore Government Loan Bonds and Government Promissory Notes of the value of Rs 20,000/- with an understanding that they should be re-endorsed to the testator B.S. Muniswamappa, after the contract period was over. This was not complied with and in the meantime B.S. Marappa died. This item also is shown as a debt due to the testator B.S.Muniswamappa in his will, to be duly collected by the Trustees. H.Gundappa has not cared two pence for the direction given in the will and has swallowed this amount also, treating the same as his own property.

13. The testator B.S.Muniswamappa died more than six years ago, and the Public Charities and the Religious Sevas directed by him have not yet seen the light of the day, while the properties specifically set apart for this purpose have been realised by H.Gundappa and B.M.Shamanna Gowda and converted to their personal use. It is also learnt that the immoveable properties des-

cribed in Schedule No.1 of the will, have been sold away by these persons and the sale proceeds realised by them.

14. The other Trustees are well aware of all these dishonest acts of H.Gundappa and B.M.Shamanna Gowda, but they have not moved even their little finger in this matter, to prevent these acts by taking the necessary action against these two persons. Not a pie out of these realisations has been invested by these persons in Government Securities as directed in the will.

15. It is learnt that Advocate Mr.K.V.Ramanuja Iyengar, and A.Sundaram Iyer, have been actually silenced by H.Gundappa and B.M.Shamanna Gowda by means of hush money. Mr.K.V.Ramanuja Iyengar is a practising Advocate and is living in Ulsoor. He was the legal advisor of the deceased testator B.S.Muniswamappa and is also the writer of the will in question. It is unimaginable that he would have kept silent in this matter unless he became a partisan of H.Gundappa and B.M.Shamanna Gowda for an illegal consideration.

16. It is said that Mr.K.V.Ramanuja Iyengar, Advocate, was indebted to the estate of the deceased testator B.S. Muniswamappa. It seems this debt is wiped out by H.Gundappa and B.M.Shamanna Gowda, who have also in addition gifted to him a house in Ulsoor, and this has been the consideration for his non-interference in this matter. His conduct deserves serious notice.

17. A.Sundaram Iyer is an ex-official of the Public Works Department, and was a great friend of the testator, who has directed in his will, that the Executor Shamanna Gowda, being inexperienced in worldly matters, should

act in consultation with A.Sundaram Iyer. This is a very very shrewd man and would have never condoned the conduct of H.Gundappa and B.M.Shamanna Gowda, if he had not been silenced by means of hush money.

18. The Executor B.M.Shamanna Gowda and H.Gundappa(Trustee)have wilfully and conjointly misappropriated the trust properties made over to their charge by the deceased testator B.S.Muniswamappa and violated the terms of the will.

19. Mr.K.V.Ramanuja Iyengar and A.Sundaram Iyer have wilfully and actively helped H.Gundappa and B.M.Shamanna Gowda in their dishonest acts in respect of the trust properties, and they are therefore equally responsible with H.Gundappa and B.M.Shamanna Gowda in this very serious matter.

20. I therefore respectfully submit that all these four persons have committed various offences in respect of the Trust properties entrusted to them and they have to be prosecuted for the said offences by the Government. British justice demands that such offenders should not escape the penalties of the law.

Wherefore I respectfully pray that this matter may be ly referred to the Police Commissioner with a direction an intelligent, independent and disinterested Police r may be deputed to investigate this case and bring enders to justice.

I beg to remain, Sir,
Your most obedient servant,

A POOR STUDENT

re,
2 1931.

I, B.S.Muniswamappa son of Budigere Siddanna, Contractor, residing at Ulsoor Jougupalya, C & M Station, Bangalore, have this 14th day of May 1925, executed the following will, when I have been in the full possession of my senses and understanding, and with quiet determination

My elder brother Mr.B.S.Marappa and myself acquired properties by self-exertion, and we divided the same between us sometime ago. We have since been enjoying our respective shares in moveable and immoveable properties separately. But in some monetary transactions my brother and myself have dealt jointly. I have purchased some properties with my own funds in the name of my father Mr.B.Siddanna. None of the properties however is ancestral.

My brother Mr.B.S.Marappa died a fortnight back. My health has also been unsatisfactory of late, and for some time past an ulcer on my foot has been giving me a great deal of trouble, and it seems to require an operation. Under these circumstances, I do not expect to live very long. I have therefore made up my mind about the disposal of my assets after my death, and I have executed this will whole-heartedly and fully conscious of my responsibility. I have not executed any other will prior to this. The only members that belong to my family are my deceased son Mr.B.M.Rangaramappa's widow, his daughter Rajeswari, my daughter Puttamma and her three sons and one daughter, and also my deceased daughter Gowramma's daughter.

My only son is dead. My elder brother Mr.B.S.Marappa has left behind two sons, by name, B.M.Shamanna Gowda and B.M.Chandrasekhara Gowda. After their father's death, these two boys have been obedient to me and they are acting in accordance with my wishes. I have therefore been treating them as my own children. I have appointed the said B.M.Shamanna Gowda as the Executor of this will, with full powers to carry out the directions contained herein and to manage my properties. Regarding some charities detailed hereunder, he has to act in consultation with the Committee that I have appointed for the purpose. He is still young and may not quite know all the affairs of his father's family as well as my own; his younger brother is still a minor boy. Under these circumstances, I hope that he will act in accordance with the advice of Mr.A.Sundara Iyer in discharging his duties. Mr.Sundara Iyer is well acquainted with my family and all its affairs. He, B.M.Shamanna Gowda should recognise Mr.A.Sundara Iyer as his agent and proceed to work. Since his youmger is still a minor, he has to be his guardian, and act on the advice and with the assistance of Mr.Sundara Iyer.

All the properties, both moveable and immoveable, the monies due to me from others, and other assets of mine, as mentioned below, shall belong to my nephews Shamanna Gowda and Chandrasekhara Gowda, and to none else. The said Shamanna Gowda shall perform my obsequies.

I own 500 shares, bearing Nos.58926 to 59425, in the Bangalore Bank. This has to be set apart as Puduvat money, i.e. deposit for the benefit of Sree Someswara Swami Temple

at Ulsoor. Out of the amount realised by way of dividends on those shares, Rs 100/- has to be set apart for the repairs of the Car of the Temple, and for paying the electrical charges of the Temple every month; the balance of the money shall be spent for carrying out the Car Procession every year. To safeguard the continuance of the above Sevas, I have appointed the Dharmakarthas of the said Temple and Mr.K.V.Ramanuja Iyengar, Advocate, who is residing in the Temple Street, as Trustees for the purpose. My Executor shall act in this matter in accordance with the wishes of these Trustees. If the said Bank becomes shaky, or if for any other reasons it is apprehended that the Puduvat money is in danger of not being realised from the Bank, my Executor and the said Trustees shall be at liberty to convert the said shares into cash, and to invest the same as a deposit in better Securities, and to continue this God's Sevas. In the name of each of the following persons, a sum of Rs 1000/- has to be kept in fixed deposit (in Mysore Government Loan Bonds), and this sum together with the interest accrued thereon has to be handed over to each of them at the time of their marriages. They are :- My daughter Puttamma's three sons and one daughter i.e. four of her children, my deceased son's daughter, and the daughter of my daughter Gowramma. Until their marriages, none of these persons has any right over the principal amount or the interest thereon. If any of these persons should die before marriage, his or her share of the deposit and its interest shall belong to my nephews Shamanna Gowda and Chandrasekhara Gowda and to none else. My deceased son's widow and his daughter shall be subject to the control and protection of my nephew Shamanna. If they cannot get on smoothly together,

15)

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house premises No.14 in G.Street No.12, shall be set apart for her residence. She shall have no independent rights over that property apart from the right of residence A sum of Rs 25/- shall be also paid to her every month for her maintenance. She shall have no other right over my properties. If my son's daughter should be married with the consent and approval of my nephew Shamanna to a bride-groom chosen and approved by him, then he shall be at liberty to spend the necessary sum of money according to his discretion and perform the marriage. He shall be the sole person to decide what sum has to be spent for this marriage. This marriage expense has nothing to do with the deposit of Rs 1000/- mentioned above to be made in my son's daughter's name.

The immoveable properties and the items of money due to me as shown in Schedule No.1 attached hereto, have to be utilised for promoting the education of poor boys, in the names of my brother and myself. Whenever these monies are collected, they shall be invested in Mysore Government 6¼% Loan Bonds. Out of these properties, a "Poor House" shall be built at a cost not exceeding Rs 20,000/- and it shall be called the "Marappa Muniswamappas' Poor Boys House". Admission to this House shall be confined to boys between the ages of 8 and 16 years. If a boy is older than 16 years and is otherwise poor and deserving, he may also be admitted. Boys of Communities other than Brahmins (three sub-sects) and Sudras, shall not be admitted. Those who do not study diligently, as well as those who are too dull to learn may be sent out of the House. A Brahmin cook should be employed in the House. In order to manage the "Poor House" efficiently, to frame the necessary rules for the guidance of the management, to decide upon the amount to be spent on this establishment, to choose a site for putting up a suitable building,

to get a plan of the building prepared and in short to do all that is needful in this connection, I have appointed the following persons to form a Committee to be in charge of these charitable affairs. The members are :-

Messrs. 1. H.Gundappa (my elder brother's son-in-law)
2. Narayanappa
3. A.Sundaram Iyer
4. K.V.Ramanuja Iyengar

My Executor and the above gentlemen shall act in collaboration. My Executor should not act contrary to the wishes of the said Committee. Amounts collected under this head should be invested on Mysore Government Loan Bonds in the name of the Trustees. In regard to the immoveable properties, the Committee is at perfect liberty to make any dispositions or conversion as they think fit. This Committee can appoint other suitable persons to act in their place. I have empowered the Executor and the Trustees to sell any of these trust properties if they think fit. If any of the properties are thus sold, the proceeds thereof ought to be invested on Loan Bonds and not in any other security. But such amount may be utilised for purchasing the building site for the "Poor House" I desire that this charity should be carried on in perpetuity without any discontinuance by the Executor and the said Trustees, so as to keep my brother's and my memory green in posterity.

In Schedule 2 attached hereto, I have set down some properties for the purpose of arranging for the following Sevas in the Temple of Sree Subramanya Swami in Old Madras Road, Ulsoor. Details of the Sevas are :- 1. Performance of Abisheka to Sree Subramanya Swami on the first Subbarayana Shashti Day, 2. To take the Swami in public procession on the said day.

The premises noted in Schedule 2 are dilapidated and need some repairs. The Executor ought to spend Rs 200/- on these premises and then lease it out to others. The rents recovered should be spent for the Sevas detailed above. The same persons who are appointed as Trustees in connection with the Sevas of the Temple of Sree Someswara Swami are also appointed as Trustees for the Sevas in connection with this Temple. They have to act in collaboration with the Executor of this will.

S C H E D U L E (1). -- Properties endowed and set apart for opening a Poor Boys Home.

1. The vacant site bearing Municipal No.112, measuring (200 x 250) feet in Arale Pett, near the Barr Lines, Bangalore City; purchased at Court sale.

2. The vacant site and the tile roofed building together with the other buildings standing thereon, bearing Municipal Nos.350 and 351 situated in the 1st Road, Chamaraja Mohalla, Mysore City.

3. Wet lands consisting of 2 acres and 15 guntas bearing Survey No.125 and assessed at Rs 17-4-0 including cess, attached to Sarvamanya Hariharpur Village, Kasaba Hobli, Krishnaraj Pett Taluk. Items 2 and 3 were purchased from Mr.Narayan Das son of Mr.B.Shamanna.

4. Government Promissory Notes and Loan Bonds of the value of Rs 20,000/- and the interest thereon, nominally transferred by me to B.S.Marappa and H.Gundappa to accommodate them for producing security deposits in connection with Excise contracts.

5. Principal Rs 17,000/- and interest thereon due on the mortgage and hypothecation bonds executed by Mr. S.S.Setlur, residing in Siddicuttay Bangalore.

6. Principal and the interest thereon due on the On Demand Promissory Notes executed by Mr.Doraswamy Pillay, Mittadar of Thiriyalam (Principal Rs 4000/- and interest Rs 1018/-.)

7. Principal Rs 8000/- and the interest thereon due to my share on the hypothecation bond executed by Haji Jaccariah Sait.

8. Principal Rs 18,000/- and the interest thereon due from Narayana Rajoo on a hypothecation deed executed by him.

9. (1) Amount due from Chikka Muniswamy Reddy and the deceased Guruva Reddy of Hoodi Village, under the decree passed against them in the District Judge's Court and Sub Judge's Court, Bangalore.

(2) Principal and interest due on the On Demand Promissory Note executed on 23.8.1922 by Chikka Muniswamy Reddy and Narayana Reddy of Hoodi Village, Bangalore Taluk.

(3) Amount due under the decree in the 1st Munsiff's Court, against Chikka Muniswamy Reddy, Dodda Muniswamy Reddy and Vema Reddy of Hoodi Village, Bangalore Taluk.

(4) Principal Rs 300/- and the interest thereon due on the On Demand Promissory Note executed by Narayana Reddy of Hoodi Village.

SCHEDULE (2). -- Property endowed to Sree Subramanya Swami Temple.

House bearing Door No.2, measuring East to West 33 feet, North to South 50 feet, situated in D.Street, No.6, 1st Division, C & M Station, Bangalore.

All the assets other than those endowed and set apart for the above mentioned charities, shall belong to my two nephews in equal shares.

All the contents of this will are correct and completely in accordance with my wishes. This has been read over to me and it correctly represents my wishes. I have set my signature to this whole-heartedly, when I am in the full possession of my senses and understanding.

(Sd) B.S.Muniswamappa (In Kannada)

14 - 5 - 1925

WITNESSES :

1. Narayanappa (Sd.in Kannada) 14-5-25.
2. H.L.Naraniengar. 14-5-25.

Written by K.V.Ramanuja Iyengar, Advocate, Ulsoor.

Executed on the 14th day of May 1925 at 4-50 P.M. at No.61, G.Street, Ulsoor, in the C & M Station, Bangalore, by -- (Sd) B.S.Muniswamappa (IN Kannada)

Execution is admitted by -

(Sd) B.S.Muniswamappa (In Kannada)

Who is personally known to me and signed this admission in my presence.

(Sd) Geo. Burby

Sub Registrar

14 - 5 - 25.

Letter No.C.3-1224/35-36, dated the 2nd March 1938, from the Deputy Commissioner, Bangalore District, Bangalore, to the Collector, C & M Station, Bangalore.

---:O:---

Sub:- Re. the management of the endowment offered by late Mr. Muniswamappa of C & M Station, Bangalore, for certain charitable purposes.

With reference to your letter No.4609-A-31, dated 26th September 1935 and the subsequent correspondence bearing on the above subject, I have the honour to forward herewith a copy of letter No.1107/Muz.197-37-2 dated 12-2-1938 from the General Secretary to Government to the Muzrai Commissioner in Mysore, received with Muzrai Commissioner's No.275/37-38, dated 22-2-1938 for information and favour of further needful action as suggested therein, since the donor is a permanent resident of the C & M Station and the cause of action arose there. Any further particulars required about any properties situated in this District will be furnished to you if and when required.

C.P. 21 puc.

The vernacular file of papers connected with the case, is enclosed herewith for favour of your reference and early return.

"C O P Y"

M. Eerbanffe

SHERISTADAR.

18/3/38.

Letter No.1107/Muz.197-37-2, dated 12-2-1938 from the General Secretary to Government, to the Muzrai Commissioner in Mysore, Bangalore.

-----:O:-----

With reference to your letter No.275/37-38 dated 28th October 1937, regarding the action to be taken in the matter of the Will left by one Mr. B.S. Muniswamappa of C & M Station Bangalore, for certain charitable purposes, I am directed to state that the Collector, C & M Station Bangalore may be addressed, suggesting the desirability for taking action under Section 92 C.P.C.

The enclosure received with your letter are herewith returned.

"COPY"

M. Ecclesiastes

SHERISTADAR.

18.2.38

Property.	Value.	Remarks.	Whether recoverable or not.
1.	2.	3.	4.
Endowed for Poor Boys' Home.			
1. Vacant site in Arale Pett, near Bar Lines, Bangalore City	6,000	Sold	Recoverable.
2. Vacant site and the tile roofed building together with the other buildings situate in the 1st Road, Chamraja Mohalla, Mysore City.	2,500	Intact	-do-
3. Wet lands consiting 2 acres 15 guntas bearing S.No.125 attached to Sarvamanya Hariharpur village Kasaba Hobli, Krishnaraj Pett Taluk.	3,000	Intact	-do-
4. Government Promissory Notes and Loan Bonds of the value of Rs.20,000/.	20,000	Sold	Doubtful.
5. Originally a mortgage, principal of Rs.17,000/- now converted into 3 acres wet lands.	25,000	Intact	Recoverable.
6. Debt. Principal and interest thereon due on the On Demand Promissory Notes executed by Mr. Doraiswamy Pillay.	5,000	-	Irrecoverable if time barred.
7. Decreed debt. Principal Rs.8000/- and interest for a bond executed by Haji Jaccriah Sait	8,000	-	Recoverable.
8. Decreed debt. Principal Rs.18,000/- and the interest thereon due from Narayana Rajoo.	18,000	-	Doubtful.
9. 4 decrees. (1) Amount due from Chikka Munisawmy Reddy and the deceased Guruva Reddy (2) Principal and interest on the On Demand Promissory Note (3) Amount due under the decree in 1st Munsiff's Court (4) Principal Rs.300/- and the interest thereon on Demand Promissory Note.	Not known	-	Recoverable.
	87,500		

Total possibly recoverable. 44,500
Total doubtful 43,000
Total. 87,500

MAB.17/4.

COLLECTOR.

IN THE COURT OF THE DISTRICT JUDGE

Bangalore, (C & M Station.

O.S.No. of 19

Plaintiff:- The Collector, ad Advocate General
C & M Station, Bangalore.

Vs.

Defendants:- 1. B.M. Shamanna Gowda, son of
B.S. Marappa, residing in
Joughpalyam, Ulsoor, Bangalore.

2. H. Gundappa, son of
residing in Joughpalyam,
Ulsoor, Bangalore.

3. A. Sundaram Iyer, son of
residing in Sigebeli,
Bangalore City.

4. K.V. Ramanuja Iyengar,
Advocate, now practicing
in Hyderabad (Deccan).

5. A. Narayanappa, son of —
residing in Joughpalyam,
Ulsoor, Bangalore.

UNDER SECTIONS 92 & 93 AND ORDER VII r.1.
OF THE CODE OF CIVIL PROCEDURE THE Plaintiff above-named most respectfully begs to states as follows:-

1. The names, descriptions and addresses of the parties hereunto are as given hereinabove. The processes etc., to be served on the Plaintiff may also be served on the Government Pleader, C & M Station, Bangalore.

2. The Plaintiff is instituting this suit in respect of a Public charity under Powers vested in him by Section 92 of the Code of Civil Procedure, he having been appointed Advocate General for the Civil and Military Station in the Hon'ble the Resident's Notification No.1619-1959 dated 15-5-1889.

3. The late Mr.B.S. Munisamappa a wealthy contractor and landlord of Joughpalyam, Ulsoor, Bangalore died towards the end of May 1925 leaving a last Will and Testament dated 14-5-1925 which bequeathed considerable property to specified charitable enterprises. The 1st Defendant is a son of the deceased testator's brother — B.S. Marappa. The 2nd Defendant is the son-in-law.

of the said Marappa. The 3rd Defendant is a friend of the deceased testator. The 4th Defendant was his Lawyer and the 5th Defendant is the deceased testator's son-in-law. By the said last Will and Testament the 1st Defendant was appointed sole executor and all the defendants were appointed trustees of the public Charity to which reference will be made presently.

4. By his last Will and Testament the testator, amongst other things, bequeathed the properties described in the schedule hereunder as an ENDOWMENT for a HOME for the Poor students of the Brahmin and Sudra communities. He appointed the 1st Defendant executor of his Will and all the Defendants the Trustees for this charity. He directed that as soon as possible after his death the trustees should get in, collect and convert into cash all the properties bequeathed to the charity and from time to time invest the cash in Mysore Government or other Government Securities and build a habitat for the Poor Students Home at a cost of Rs.20,000/- and utilise the income from the balance for the maintenance of the Home. The testator also directed that the Trustees and the executor should act jointly in the execution of the trusts.

5. Although the 1st defendant has obtained probate of the testator's will, nothing whatever has been done by him or the executors to further the testator's charitable intentions. They have also not furnished accounts of the trust properties although repeatedly called upon to do so by the Collector. They have totally ignored the provisions as to the trust and the directions of the testator. It has therefore

become necessary to institute this suit in order to ensure that the charitable bequests referred to are given effect.

6. The testator has given certain directions with regard to the establishment and maintenance of the charity. But the charity has not come into existence and it is extremely doubtful whether the testator's directions will be sufficient for the efficient conduct of the charity. The testator has shown a definite intention to make a gift to public charity and as such the Plaintiff is entitled to have this intention carried out, to have the charity established and for that purpose to have a scheme framed, to have proper trustees appointed, and to other reliefs under Section 92 of the Code of Civil Procedure.

7. The cause of action may be said to have arisen somewhere in 1931 inasmuch as the Defendants are express trustees there is no question of limitation in the suit.

8. The suit being one under Section 92 of the Code of Civil Procedure is filed in this Court and a fixed fee of Rs.50/- prescribed by the Court Fees Act is paid on the plaint.

9. The Plaintiff therefore prays for a decree:

(a) removing the Defendants from their office of trustees under the last will and testament of the deceased Munisawmappa

(b) appointing new trustees with power to collect the estate and apply it to the objects of the said trust;

(c) vesting the trust properties in the trustees appointed as aforesaid;

(d) directing accounts and enquiries;

(e) authorizing the sale of any property that may have to be sold;

(f) settling a scheme;

(g) directing that the Defendants make good out of their private properties such part of the trust property as has been lost by their neglect or misconduct;

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(h) granting such further or other relief as the nature of the case may require.

(i) for costs of the Plaintiff against the Defendants.

"COPY OF DRAFT PLAINT"

COLLECTOR.

CONFIDENTIAL.

OFFICE OF THE COLLECTOR,
CIVIL AND MILITARY STATION, BANGALORE.

No. 1674-A-39. ~~Enc. 2~~. *Dated* 9th May *193* 9

FROM

C.F.V. Williams, Esq., I.C.S.,

COLLECTOR, CIVIL AND MILITARY STATION,
BANGALORE.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
13 MAY 1939
Diary No. 490 /
File No.....

To

The Secretary to the Hon'ble the Resident in Mysore,
Bangalore.

SIR,

Religious and charitable endowments - will left by the late Mr.B.S.Munisawmappa - failure to observe provisions for creating trust - My letter No.934-A-38, dated the 17th April 1939.

In continuation of my letter quoted above I have the honour to report that the authorities in Mysore now appear to be displaying some interest in this matter and are evidently in favour of action under Section 92 Civil Procedure Code. I have informed the Muzrai Commissioner in reply to his enquiry that the question is under consideration.

I have the honour to be,
Sir,
Your most obedient servant,

C. Williams

COLLECTOR.

MAB.9/5.